

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ADAM DAVIS,

Petitioner,

V.

UNITED STATES OF AMERICA,

Respondent.

CIVIL ACTION

No. 03-20123-02-CM

No. 05-3367

ORDER

On July 27, 2006, this court denied petitioner's *pro se* motion to vacate, set aside, or correct his sentence (Doc. 490). Petitioner filed a Notice of Appeal on August 9, 2006, but did not request that this court issue a certificate of appealability. Nevertheless, the court considers whether petitioner is entitled to a certificate of appealability pursuant to Fed. R. App. P. 22(b)(1) ("If the applicant files a notice of appeal, the district judge who rendered the judgment must either issue a certificate of appealability or state why a certificate should not issue.").

The court will issue a certificate of appealability “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Under this standard, a petitioner must show that “reasonable jurists could debate whether . . . the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (internal quotation marks and citation omitted). For the reasons stated in the court’s Memorandum and Order filed July 27, 2006, the court finds that petitioner has not made a substantial showing of the denial of a constitutional right. The court declines to issue a certificate of appealability.

IT IS SO ORDERED.

Dated this 22nd day of August 2006, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge